



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2012-0467; FRL-9748-8]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; Determination of Attainment of the 1997 Annual Fine Particle Standard for the Detroit-Ann Arbor Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is making two final determinations under the Clean Air Act (Act) regarding the 1997 annual fine particle ($PM_{2.5}$) nonattainment area of Detroit-Ann Arbor, Michigan (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties) (Detroit-Ann Arbor area or area). First, EPA is determining that the Detroit-Ann Arbor area has attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS). EPA made this determination of attainment based upon complete, quality-assured, and certified ambient air monitoring data for 2009-2011, showing that the area has monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. Preliminary data available for 2012 indicate continued attainment. Pursuant to EPA rule, this determination suspends the requirements for the Detroit-Ann Arbor area to submit an attainment demonstration, associated reasonably available control measures (RACM) to include reasonably available control technology (RACT), a reasonable

further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 1997 annual PM_{2.5} NAAQS so long as the area continues to attain the PM_{2.5} NAAQS. EPA is also determining, based on complete, quality-assured and certified monitoring data for the 2007-2010 monitoring period, that the Detroit-Ann Arbor area had attained the 1997 annual PM_{2.5} NAAQS by the its attainment date of April 5, 2010.

DATES: Effective Date: This final rule is effective on [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R05-OAR-2012-0467. All documents in these dockets are listed on the www.regulations.gov web site.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Carolyn Persoon at (312) 353-8290 before visiting

the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Carolyn Persoon, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8290, persoon.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. What Action Is EPA Taking?

II. What Is the Effect of this Action?

III. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

In this action, EPA is making final determinations solely with respect to the 1997 annual PM_{2.5} NAAQS. First, EPA is finalizing its proposed determination that the Detroit-Ann Arbor area has attained the 1997 annual PM_{2.5} NAAQS, based upon complete, quality-assured, and certified ambient air monitoring data for 2009-2011. Preliminary data for 2012 indicate continued attainment. Second, pursuant to section 179(c) of the Act, EPA is finalizing the proposed determination that the Detroit-Ann Arbor area attained the 1997 annual PM_{2.5} NAAQS by its attainment date, April 5, 2010.

On July 5, 2012 (77 FR 39659), EPA proposed these two determinations related to the 1997 annual PM_{2.5} NAAQS. A discussion of the rationale for these determinations and their effects was included in the notice of proposed rulemaking. EPA received one supportive comment related to these proposed determinations which can be found in the docket. EPA received no adverse comments addressing these proposed determinations for the 1997 PM_{2.5} NAAQS.

In its July 5, 2012 notice, EPA also proposed to make a separate determination with respect to the Detroit-Ann Arbor area's attainment of the 24-hour 2006 PM_{2.5} standard. EPA is not finalizing its proposal with respect to the 2006 PM_{2.5} standard here. Instead, EPA intends to address the attainment status of the Detroit-Ann Arbor area for the 2006 PM_{2.5} standard in a future, separate rulemaking action.

II. What Is the Effect of this Action?

Under the provisions of EPA's PM_{2.5} implementation rule (40 CFR 51.1004(c)), EPA's final determination that the area has attained the 1997 annual PM_{2.5} standard, based on the most recent quality-assured and certified data, suspends the requirements for the State of Michigan to submit for the Detroit Ann-Arbor area an attainment demonstration and associated RACM (including RACT), a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 PM_{2.5} NAAQS for so long as

the area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. If EPA subsequently determines, after notice and comment rulemaking, that this area violates the 1997 annual $PM_{2.5}$ NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.1004(c), would no longer exist and the area would thereafter have to address the pertinent requirements.

This action does not constitute a redesignation of the Detroit Ann-Arbor area to attainment of the 1997 annual $PM_{2.5}$ NAAQS under section 107(d)(3) of the Act. Further, this action is not an EPA approval of a maintenance plan for the area as required under section 175A of the Act, nor a finding that the area has met all other requirements for redesignation. Even after a determination of attainment by EPA, the designation status of the Detroit Ann-Arbor area remains nonattainment for the 1997 annual $PM_{2.5}$ NAAQS until such time as EPA determines that the area meets the Act requirements for redesignation to attainment and takes action to redesignate the Detroit Ann-Arbor area.

Pursuant to section 179(c)(1) of the Act, EPA is also determining that the Detroit-Ann Arbor area attained the 1997 annual $PM_{2.5}$ NAAQS by its attainment date of April 5, 2010. In finalizing this action, EPA has satisfied its obligation under section 179(c).

III. Statutory and Executive Order Reviews.

This final action makes attainment determinations of the Detroit area's attainment of the 1997 PM_{2.5} NAAQS based on air quality data and results in the suspension of certain Federal requirements and does not impose any additional requirements. For that reason, this final action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, these 1997 PM_{2.5} NAAQS attainment determinations do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required

information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Particulate matter, Reporting and
recordkeeping requirements.

Dated: October 19, 2012.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR Part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

2. Section 52.1173 is amended by adding paragraphs (h) and (i) to read as follows:

§ 52.1173 Control strategy: Particulates.

* * * * *

(h) Determination of Attainment. EPA has determined, as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], that based on 2009-2011 ambient air quality data, the Detroit-Ann Arbor nonattainment area has attained the 1997 annual PM_{2.5} NAAQS. This determination, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual PM_{2.5} NAAQS.

(i) Pursuant to Clean Air Act section 179(c), EPA has determined that the Detroit-Ann Arbor area attained the annual 1997 PM_{2.5} NAAQS by the applicable attainment date, April 5, 2010.

[FR Doc. 2012-26957 Filed 11/05/2012 at 8:45 am; Publication
Date: 11/06/2012]